DOCUMENT RESUME

ED 447 873 JC 010 040

TITLE	Requirements of the Copyright Laws as They Apply to Higher Education.
INSTITUTION	Salt Lake Community Coll., UT.
PUB DATE	1999-08-00
NOTE	45p.
AVAILABLE FROM	SLCC Administrative Services, P.O. Box 30808, Salt Lake City, UT 84130-0808. Tel: 801-957-4533; Fax: 801-957-4444.
PUB TYPE	Reports - Descriptive (141)
EDRS PRICE	MF01/PC02 Plus Postage.
DESCRIPTORS	Community Colleges; *Copyrights; Fair Use (Copyrights); Federal Regulation; *Higher Education; *Intellectual Property; Legal Responsibility; *Plagiarism; Reprography
IDENTIFIERS	*Salt Lake Community College UT

ABSTRACT

This handbook is designed to provide guidelines for members of the Salt Lake Community College (Utah) community, faculty, administrators, staff, and students to follow in using copyrighted materials legally and appropriately. Perhaps the most often misinterpreted section of the U.S. Copyright Law of 1976 is Section 107: Limitations on Exclusive Rights: Fair Use. It does not, as many have interpreted, sanction multiple copies for classroom use without restriction. The important thing to remember is that educational use alone does not constitute a fair use. Except where copying without permission is specifically given in this handbook, prior written permission must be obtained from the copyright owner or from the Copyright Team for use of any portion of a copyrighted material. To comply with copyright regulation, each photocopy must include a notice of copyright. The copyright for any materials created by an employee of the college while employed by the college is held by the college itself, not by the creator of the work. Photocopies may be made without permission from United States Government publications. As a general rule, copyright is required each semester, even if the materials have been cleared for previous semesters. Materials downloaded from the Internet and used in a course packet almost always requires copyright clearance. Appendices contain brevity samples that serve as a gauge of the amount of material that can be copied without permission as long as the criteria for copying without permission are met and Internet addresses of resources are provided. (JA)

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P.O. Box 30808, Salt Lake City, UT 84130-0808 (801) 957-4533 FAX (801) 957-4444

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1. INTRODUCTION

Copyright and intellectual property are critical issues in American education, and a variety of copyright laws, agreements, and guidelines restrict substantially the liberties educators can take in using copyrighted materials for educational use. It is the responsibility of all members of the College community--faculty, administrators, staff, and students--to use copyrighted materials legally and appropriately in the classroom, in research, and in meetings and presentations. This handbook is designed to provide guidelines and assistance in the fulfillment of that responsibility.

COLLEGE POLICY

At SLCC, the first places to seek help with the correct use of copyrighted materials are the College policies on copyright, *Chapter II, Section 12.01, Photocopying of Copyrighted Materials for Classroom Use*, 1984, and *Chapter II, Section 17.01, Information Technology Acceptable Use of College Computing Resources*, 1998. For on-line access to College policies and procedures, go to the College web page, click on *Facts About Us*, then click on *Policies and Procedures*. Printed copies are also available at these locations:

Redwood Road Campus-- Administrative Services, AD 50--Nancy Sanchez
Markosian Library--General Reference Desk
Human Resources, AD 160
Sandy Center-- Florence Steadman
South City Library-- General Reference Desk

COPYRIGHT TEAM

Additionally, responsibility for assistance with correct use of copyrighted materials resides with the Copyright Team. The purpose of the *Copyright Team* is to assist faculty, administrators, staff, and students in recognizing and respecting intellectual property rights. The team functions to help the College community maintain the highest standards for ethical conduct with respect to the correct and legal use of copyright-protected works. The members of the Copyright Team are listed below. Please contact them for assistance with copyright processes and questions.

Type of Assistance	Copyright Team Member(s)	Phone Number
Computer Software	Marvin Hawkins, Director, ITS/Administrative Support	957-4129
Course Packets/TELguides	Rhonda Williams, College Store, Copyright Clearance	957-3328
Digital Millennium Copyright Agent	Nancy Sanchez, Director, Administrative Services	957-4041 814-7555
Distance Education	Shanna Schaefermeyer, Director, Distance Education	957-4064
Handouts and other Printed Material	Rhonda Williams, College Store, Copyright Clearance	957-3328
	Nancy Sanchez, Director, Administrative Services	957-4041
Instruction	Douglas New, Asst. Professor, Learning Enhancement	957-4171
Internal Audit	Lynn Cartwright, Internal Auditor	957-4009
Library Databases and Online Service Providers	Cathleen Partridge, Director, Learning Resources	957-4905
Library Reserves and Interlibrary Loans	Cathleen Partridge, Director, Learning Resources	957-4905
Multi-Media Materials	William Dabbs, Media Services Librarian	957-4606
Music and Sound Recordings	William Dabbs, Media Services Librarian	957-4606
Off-Air Recording	William Dabbs, Media Services Librarian	957-4606
Purchasing	Gunnell Nelson, Director, Purchasing	957-4255
Public and Theatrical Performances	Margaret Aoki, Visual Media Coordinator	957-4112
	Kenneth Plain, Director, Grand Theatre	957-3263
Attorney General's Office	Constance Hughes, Assistant Attorney General	957-4227

The SLCC registered *Copyright Agent* under the *Digital Millennium Copyright Act of 1998* (DMCA) is Nancy Sanchez, Director of Administrative Services. Please contact any one of the members of the Copyright Team or the Copyright Agent to seek help with a copyright question. Most routine copyright questions can be answered immediately by individual members of the team, so the team does not meet on a regular basis. When a copyright or intellectual property issue arises, however, the team will be convened to discuss it and provide guidance.

2. DEFINITION OF COPYRIGHT AND INTELLECTUAL PROPERTY

Copyright and intellectual property laws are based on the premise that the creator or author of a work has certain exclusive rights to the use of his or her work. Intellectual property includes, but is not limited to, any invention, discovery, trade secret, technology, scientific or technological development, computer software, and other properties regardless of whether they are subject to protection under patent, trademark, copyright, or other laws. Many different kinds of materials receive copyright protection. The U.S. *Copyright Law of 1976* (Public Law 94-553; U.S. Code, Title 17) extends copyright protection to literary, musical, and dramatic works; pantomimes and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audio visual works; and sound recordings. Unpublished works by U.S. and foreign authors are protected, as well as published works by U.S. authors. Copyright protection is also extended to compilations, collective works, and derivative works. The *Copyright Law of 1976* defines a derivative work as:

> *A work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted.*

The *Digital Millennium Copyright Act of 1998* (Public Law 105-304) addresses:

- the liability of online service providers
- making copies of copyrighted computer programs
- exceptions for libraries and for making ephemeral recordings
- distance education
- webcasting sound recordings on the Internet
- the applicability of collective bargaining agreement obligations in the case of transfers of rights in motion pictures.

The *Digital Performance Right in Sound Recording Act of 1995* extends limited public performance rights to sound recordings.

The *Sonny Bono Copyright Term Extension Act of 1998* (Public Law 105-298) extends the term of copyright protection by an additional twenty years to life plus 70 years.

Section 106 of the *Copyright Law of 1976* defines the exclusive rights of copyright owners as the right to:

- reproduce the work in copies or recordings
- prepare derivative works (new versions)

- distribute copies or recordings publically
- perform the work publically
- display the work publically

There are, however, certain limitations to these exclusive rights which are stated in sections 107 through 118 of the 1976 law. These include Section 107, *Limitations on Exclusive Rights: Fair Use* (See handbook Section *3. Fair Use*), and Section 108, *Limitations on Exclusive Rights: Library Copying* (See handbook Section *13. Library Reserves and Interlibrary Loans*). These sections do allow some copying. Additionally, to assist users in interpreting what is a legal use of copyrighted material and what is not, several sets of guidelines have been developed with respect to specific types of materials. Links to the full text of all of these guidelines and other references are found in Appendix B of this handbook. Some of the major guidelines include:

- *Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions With Respect to Books and Periodicals (1976)* (which includes guidelines for off-air broadcasting)
- *Guidelines for Educational Uses of Music (1976)*
- *Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes (1981)*
- *Fair Use Guidelines for Educational Multimedia (1998)*

The information presented in these guidelines is a summary and is not intended to be exhaustive. For further assistance in obtaining copies of the appropriate documents, or interpreting provisions of the law as they apply to educational uses of copyrighted materials, please contact any member of the Copyright Team. The team member may be able to provide or obtain the needed information.

3. FAIR USE

Perhaps the most often misinterpreted section of the *Copyright Law of 1976* is Section 107, *Limitations On Exclusive Rights: Fair Use*. It does not, as many have interpreted, sanction multiple copies for classroom use without restriction. This section reads:

> *...the fair use of a copyrighted work, including such use by reproduction in copies or phono records or by any other means specified in that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include–*
> *(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;*
> *(2) the nature of the copyrighted work;*

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
(4) the effect of the use upon the potential market for or value of the copyrighted work.

The important thing to remember is that educational use alone does not constitute a *fair use*.

House Report: Statement of Intention as to Classroom Reproduction states that *"a specific exemption freeing certain reproductions of copyrighted works for educational and scholarly purposes from copyright control is not justified."*

The *Committee of Educational Institutions and Organizations on Copyright Revision* made, in conjunction with passage of the copyright law, a number of decisions and statements. The committee report provides more information on the intent of the actual language of the law and, although not included in the text of the law as originally planned, it was officially accepted by the congressional conference committee as part of its understanding of *fair use*. It identifies the additional restrictions that apply to classroom copying and constitutes the official guidelines to be used by educators. The report is titled *Agreement on Guidelines for Classroom Copying in Not-For-Profit Educational Institutions With Respect to Books and Periodicals*, and is considered the minimum standard for *fair use*.

The *Consortium for Educational Technology for University Systems (CETUS)* has produced a useful guide entitled *Fair Use of Copyrighted Works*. This item is available at the CETUS web site at http://www.cetus.org. (See additional web references in Appendix B.)

NOTE: There may be instances in which copying that does not fall within the guidelines stated in this handbook may nonetheless be permitted under the criteria of *fair use*. Check with members of the Copyright Team for clarification.

4. RESPONSIBILITY FOR COMPLIANCE

It is **your responsibility** to be familiar with copyright and intellectual property regulations and to strictly adhere to them. The College policy on copyright, *Chapter II, Section 12.01, Photocopying of Copyrighted Materials for Classroom Use*, states, regarding compliance, that *"To minimize intrusiveness and over-centralization, the responsibility for making this determination will continue to reside with the individual."* (See College Web page; click on *Facts About Us*, then click on *Policies & Procedures.*)

LIABILITY FOR CLAIMS OF INFRINGEMENT

Copyright owners have sued and will continue to sue individuals and institutions of higher education for alleged infringement, and the penalties or damages awarded for infringement can be very harsh.

Ignorance of the law is not a defense and even if individuals do not know they are infringing, they may still be liable for damages. **If your activities violate the College's policies, guidance from this handbook, or the recommendations of the Copyright Team, you may be personally responsible for your own defense against claims of copyright infringement**.

COPYRIGHT TEAM

If you have questions, you should contact any member of the Copyright Team for assistance. Specific areas of specialty are identified in the chart found in the introduction to this handbook.

USE OF MATERIALS COPYRIGHTED BY OTHERS

Except where copying without permission is specifically given in this handbook, prior written permission must be obtained from the copyright owner or from the Copyright Team for use of any portion of a copyrighted material.

The responsibility for compliance with copyright regulations applies whether individuals are making copies of materials themselves, making arrangements to have materials copied, incorporating materials into a derivative work, creating a web site, including copyrighted materials in a web site, distributing materials to students in on-site or remote classrooms, or arranging for public performance. Making copies includes:

- Copying done for self or others--whether on or off campus--on a convenience copy machine or through recording, electronic, or photographic processes.
- Copying done by request to a College unit, such as Copy Center Services, Media Distribution Services, Media Production Services, or Program Innovation.
- Copying done by request to a commercial entity, such as a copy service, audio/video recording studio, or multimedia production service.

CREATION OF ORIGINAL WORKS BY AN EMPLOYEE OR CONTRACTOR OF THE COLLEGE

The copyright for any materials created by an employee of the College while employed by the College, or by any person employed by the College as an independent contractor for the purpose of College business, is held by the College itself, not by the creator of the work. This applies to original works as well as derivative works. The work is considered to be a work made for hire. Works made for hire are defined in the *Copyright Law of 1976* as:

,a. A work prepared by an employee within the scope of his or her employment.

> *b. A work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as an answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. For the purpose of the forgoing sentence, a "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer materials for tests, bibliographies, appendixes, and indexes, and an "instructional text" is a literary, pictorial, or graphic work, prepared for publication and with the purpose of use in systematic instructional activities.*

In addition to the works listed in the 1976 law, the College considers the following to also be works for hire: web pages, computer software, templates, and other digital creations, and training, procedural, and other manuals. This list is not all inclusive and would also include any other work done within the scope of an individual's employment at the College.

College policy requires that all such materials include an official *Notice of Copyright*. (See handbook Section *7. Print Materials: Notice of Copyright.*)

5. FIRST STEPS TO IDENTIFY COPYRIGHT AND INTELLECTUAL PROPERTY STATUS

The first question to ask when considering whether to incorporate portions of works produced by others in an original work is whether the works are indeed protected by copyright and intellectual property statutes. Works in the public domain, U.S. government publications, unoriginal compilations like a telephone book, and true computer freeware (not shareware) are examples of items that are not copyrighted. To help determine whether a work is copyrighted, first look for the official *Notice of Copyright*, which consists of three elements:

- the letters "copyright: or "copr." or the symbol of a small c within a circle ©
- the name of the copyright holder
- the year of first publication

Not all copyrighted items carry a *notice of copyright*. After 1988, U.S. copyright law does not require the presence of a copyright notice. Materials produced both before and after this date may be under copyright protection even if the notice of copyright does not appear on them. Regardless of the presence or absence of a copyright notice, it is your responsibility to comply with current copyright law.

6. PRIOR PERMISSION

COPYING THAT REQUIRES PRIOR PERMISSION

If the copyrighted material meets **all** the requirements outlined in this handbook for copying without permission, copies may be made without written permission from the copyright owner. Otherwise, **prior written permission or copyright clearance must be sought**. Members of the Copyright Team can assist in this determination.

Written Permission Record

Permission to copy should always be verified in writing. The original permission must be kept by the Copyright Team. The individual should also keep a copy in his or her personal files.

Examples of Works Requiring Prior Permission

The following list includes only a sample of the types of copying that require prior permission:

Repetitive Copying--Both classroom and library reserve use of photocopied materials will normally require advance permission from the owner of the copyright if their intended use is for:

- multiple courses (more than one course per semester) or
- for use during more than one term (use in the same course for more than one semester)

Copying for Profit--*Fair use* extends only to non-profit copying. Students should not be charged more than the actual cost of copying. Likewise, students should be advised that they may not make additional copies of the material without obtaining prior written permission or clearance. *Fair use* does extend to commercial copy shops so long as all other restrictions are met.

Consumable Works--Duplication of works consumed in the classroom, such as standardized tests, exercises and workbooks, and others normally require the written permission of the copyright owner.

Creation of Anthologies--Creation of a collective work or anthology by photocopying a number of articles intended to be purchased and used together as the basic text for a course normally requires permission of the copyright owners. Even where another text is purchased for the course, such photocopying is more likely to be considered a substitute for the purchase of books, publishers' reprints, or periodicals and is less likely to be deemed *fair use*.

Unpublished Works--Permission must be obtained from owners of unpublished works in order to copy from them. The copyright law gives automatic copyright protection to unpublished works from the point of their creation through the author's lifetime plus seventy years.

TIME REQUIRED TO OBTAIN WRITTEN PERMISSION

Before responding to a written request, a copyright owner will make an evaluation of the request based on the criteria in the laws; the additional restrictions, prohibitions, and *fair use* guidelines in formal agreements; the status and ownership of rights; and other criteria established by the copyright owner. It is not uncommon for requests to take up to six weeks or longer. Therefore, it is wise to provide as much lead time as possible to have the request processed.

INFORMATION NEEDED FOR WRITTEN PERMISSION

It is important to communicate to the copyright owner (either individual author or publishing company) exact and complete information. At a minimum, the following information should be included:

- Title
- Author/editor/publisher/copyright owner
- Edition/version/copyright year/ISBN or ISSN number
- Exact material to be copied (page numbers, chapters, video segment, audio clip, portion of web site, article name, etc.)
- Number of copies to be made
- Statement as to whether copying will be one-time or continue from term to term
- Description of format in which copies will be made and how they will be used (photocopy, video, etc., for classroom, meeting, seminar, presentation, public performance etc., and whether supplementary to other materials)
- Statement as to whether copies will be sold (at cost or with markup) or distributed free of charge

Prior to contacting a copyright owner for permission to use any copyrighted work, please contact a member of the Copyright Team for assistance.

7. PRINT MATERIALS

SINGLE COPYING FOR INSTRUCTOR OR EMPLOYEE USE

Government Publications--Photocopies may be made without permission from United States Government publications. U.S. government publications cannot be copyrighted. However, publications published by others with the support of federal grant or contract funds, or portions of government documents consisting of copyrighted material from other sources are restricted by the guidelines for print materials identified in this handbook.

All Other Books or Periodicals--A single copy may be made of any of the following by or for an instructor or employee at his or her individual request for scholarly research, use in teaching or preparation to teach a class, or preparing to perform the functions of his or her job:

- A chapter from a book
- An article from a periodical or newspaper
- A short story, short essay or short poem, whether or not from a collective work
- A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper

Any other copying may require prior permission.

MULTIPLE COPIES FOR CLASSROOM USE

Government Publications--Photocopies may be made without permission from United States Government publications. U.S. government publications cannot be copyrighted. However, publications published by others with the support of federal grant or contract funds, or portions of government documents consisting of copyrighted material from other sources are restricted by the guidelines in this handbook.

All Other Books or Periodicals--The guidelines listed below were published to clarify *fair use* as it applies to books and periodicals. The same principles and guidelines may also be applied in determining the appropriateness of making multiple copies for non-classroom use, such as meetings, seminars, etc. Multiple copies (not to exceed one copy per student in the course) may be made, by or for the instructor teaching the course, for classroom use or discussion without prior written permission only if **all five of the these criteria are met**:

- The copying meets the ***brevity*** test as defined below.
- The copying meets the ***spontaneity*** test as defined below.
- The copying meets the ***cumulative effect*** test as defined below.
- Each copy includes a ***notice of copyright***.
- The copying does not violate any of the ***prohibitions*** listed for print materials.

CRITERIA FOR PHOTOCOPYING WITHOUT PRIOR WRITTEN PERMISSION

Brevity

To make copies without prior written permission or copyright clearance, one of the five conditions the material must meet is *brevity*. Each of the numerical limits stated for poetry and prose below may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph. See also "Special Works" as it applies to poetry and prose.

Poetry–

- A complete poem if it is less than 250 words and if it is printed on not more than two pages
  or
- From a longer poem, an excerpt of not more than 250 words.

Prose--

- A complete article, story or essay of less than 2,500 words
  or
- An excerpt from any prose work of not more than 1,000 words or 10 percent of the work, whichever is less, but in any event a minimum of 500 words.

Illustration--One chart, graph, diagram, drawing, cartoon or picture per book or per periodical issue.

Special Works--Certain works, in poetry, prose or in "poetic prose", which often combine language with illustrations, and which are intended sometimes for children and at other times for a more general audience, fall short of 2,500 words in their entirety. Such "special works," regardless of the guidelines listed above, may not be reproduced in their entirety. However, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10 percent of the words found in the text thereof, may be reproduced.

Spontaneity

Both the following requirements of spontaneity and the other four criteria listed above, must be met to make copies without prior permission:

- The copying is at the instance and inspiration of the individual instructor
  and
- The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

The spontaneity rule may be correctly applied in concert with other restrictions **only once**. The material cannot be used again without written permission.

Cumulative Effect

To make copies without prior written permission or copyright clearance, one of the five conditions the material must meet is *cumulative effect*. The limitations under bullets 2 and 3 below do not apply to current news periodicals and newspapers and current news sections of other periodicals.

- The copying of the material is for only one course in the school in which the copies are made.
- Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than 3 from the same collective work or periodical volume during one class term.
- There shall not be more than nine instances of such multiple copying for one course during one class term.

Notice of Copyright

To comply with copyright regulation, each photocopy must include a *notice of copyright*. This notice requirement can be complied with in a number of ways, but is commonly met by one of these two methods:

- Include, as part of each copy of the materials, a copy of the inside cover page– preferably front and back (since the back contains the actual copyright notice, ISBN number, and other pertinent information).

  or

- Include the information from the inside cover page on the first page of the materials to be photocopied. (Include exact title, edition, author, publisher, copyright date, and ISBN number.)

When prior permission is required, materials must still carry a notice of copyright, along with a *credit line* specifying that they were copied with the permission of the copyright owner (such as: "copied with permission of XYZ Publishing Company.") Copyright owners will sometimes specify the exact language for the credit line when permission to copy is granted.

Prohibitions on Copying Print Materials Without Prior Permission

Even if the material meets all the requirements listed above for *brevity, spontaneity,* and *cumulative effect*, and if it bears the proper *notice of copyright,* it still may not be copied without prior written permission or copyright clearance if **any of the prohibitions** listed below apply to the materials:

- Copying shall not be used to create or to replace or substitute for anthologies, compilations or collective works. Under this prohibition, such replacement or substitution may occur whether copies of various works or excerpts therefrom are accumulated (such as in a course packet or TELguide) or reproduced individually and used as separate handouts.

- Copying of or from works intended to be "consumable" in the course of study or of teaching is not allowed. These include workbooks, exercises, standardized tests and test booklets, answer sheets, and similar consumable material.

- Copying cannot be used to substitute for the purchase of books, publishers' reprints, or periodicals.

- Copying shall not be directed by higher authority (i.e., instructions, requests, or permission from a supervisor does not absolve the instructor or employee from responsibility for compliance with these guidelines). The ultimate responsibility for copying falls upon the person requesting the copying.

- Copying shall not be repeated with respect to the same item by the same instructor from term to term. **Any materials used more than once require prior written permission or copyright clearance**.

- No charge shall be made to the student beyond the actual cost of the photocopying. (*Fair use* applies only to non-profit copying.)

COPYING PRINTED MUSIC

The guidelines listed below were published to clarify *fair use* as it applies to music. A single copy or multiple copies (not to exceed one copy per student in the course) may be made of printed music by or for the instructor without prior permission if such copying falls within the permissible uses listed below and does not violate any of the listed prohibitions.

Written Permission Record

Permission to copy should always be verified in writing. The original permission must be kept by the Copyright Team. The individual should also keep a copy in his or her personal files.

Limitations on Photocopying Printed Music

Generally speaking, copying of music without prior permission should be limited to the following:

Printed Sheet Music--These limits apply to both individual sheet music and individual works from music books:

- entire works: may be copied only for performances and only in cases of emergencies
- performable portions (such as arias or movements from a larger piece) may be copied only if out of print

Recorded Student Performances–may be copied only for:

- instructor or institutional evaluation
- a student's portfolio

Sound Recordings--one copy may be made for classroom or library reserve use

See *15. Public and Theatrical Performances* for more information on music.

Permissible Uses of Music Photocopied Without Prior Permission

- Emergency copying to replace purchased copies which for any reason are not available for an imminent performance provided purchased replacement copies are substituted in due course.

- For academic purposes other than performance, single or multiple copies of excerpts may be made, *provided that*:

  - The excerpts do not comprise a part of the whole which would constitute a performable unit such as a section, movement or aria.

  - In no case shall the excerpt comprise more than 10 percent of the whole work.

Prohibitions on the use of Photocopied Music

Even if the musical material falls within the *permissible use* guidelines listed above, copying shall not be allowed without permission if any of the prohibitions listed below apply to the materials.

- Copying shall not be used to create, replace, or substitute for anthologies, compilations or collective works.

- Copying shall not be done of or from works intended to be "consumable" in the course of study or of teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.

- Copying shall not be done for the purpose of performance, except as listed in *Permissible Uses of Music Photocopied Without Prior Permission* above.

- Copying shall not substitute for the purchase of music, except as listed in *Permissible Uses of Music Photocopied Without Prior Permission* above.

- Copies must include the copyright notice which appears on the printed original.

COPYING UNPUBLISHED WORKS

Unpublished works, such as theses, dissertations, research notes, classroom materials created by other individuals, and other items, are normally given automatic protection under copyright law for the life of the author plus seventy years. Check with any member of the Copyright Team for assistance in determining status of individual unpublished works.

COPYING OUT-OF-PRINT WORKS

Out-of-print works are still protected by copyright and may not be copied without prior, written permission unless certain requirements are met. Check with any member of the Copyright Team for additional information on out-of-print works.

8. COURSE PACKETS AND TELGUIDES

Course packets and TELguides (instructional materials developed for TELEcourses) are compilations or collections of materials assembled by the instructor from a variety of outside sources. The outside sources may consist of both the instructor's own intellectual property and materials from other sources.

A proper *copyright notice* and *credit line* must accompany each reprint of copyrighted material. (See *Notice of Copyright* under handbook Section *7. Print Material* for more information.)

PRODUCING COURSE PACKETS AND TELGUIDES

The Salt Lake Community College Store is responsible for assisting instructors in gaining prior permission or copyright clearance for course packets and TELguides. Packets and TELguides are distributed by the College Store on a non-profit basis. The College Store will:

- Obtain copyright clearance for all copyrighted materials
- Give proper notice and credit on each reprint of copyrighted material
- Clean up the packet or TELguide before printing
- Print the packet or TELguide
- Distribute the packet or TELguide

Information Needed to Secure Prior Permission or Copyright Clearance

- Title
- Author/editor/publisher/copyright owner

- Edition/version/copyright year/ISBN or ISSN number
- Exact material to be copied (page numbers, chapters, video segment, audio clip, portion of web site, article name, etc.)
- Number of copies to be made

Prior to contacting a copyright owner for permission to include any copyrighted work in a course packet or TELguide, please contact the College Store.

POINTS TO REMEMBER IN PREPARING COURSE PACKETS AND TELGUIDES

The following points are helpful in making sure each course packet or TELguide will be prepared and distributed to students on time:

- Copyright clearance can take up to six weeks or longer. Materials needing clearance should be submitted well in advance. The clearance procedure takes longer at peak times, such as the weeks preceding each semester start date.

- As a general rule, copyright clearance is required each semester, even if the materials have been cleared for previous semesters.

- Copying from the text used in the classroom must meet the same restrictions as other photo-copying unless prior permission is granted.

- Material downloaded from the Internet and used in a course packet almost always requires copyright clearance. Check with the College Store before assuming it may be copied.

9. MULTI-MEDIA MATERIALS

FAIR USE GUIDELINES FOR EDUCATIONAL MULTIMEDIA

In late 1996, the *Conference on Fair Use (CONFU)* completed its initial work on negotiating a set of rules or guidelines related to educational multimedia. The Conference produced the *Fair Use Guidelines for Educational Multimedia*, which:

> *...apply to the use, without permission, of portions of lawfully acquired copyrighted works in educational multimedia projects which are created by educators or students as part of a systematic learning activity by nonprofit educational institutions. Educational multimedia projects created under these guidelines incorporate students' or educators' original material, such as course notes or commentary, together with various copyrighted media formats including but not limited to,*

motion media, music, text material, graphics, illustrations, photographs, and digital software which are combined into an integrated presentation.

Students and educators may use portions of copyrighted works in the creation, display, or performance of educational multimedia projects if these projects are developed in conjunction with educational pursuits. Educators may continue to perform and display these projects for a period of up to two years after the first instructional use within the class. Students may perform and display these projects in the course for which they were created and in their own student portfolios. Only two copies may be made of educational multimedia projects, of which one may be used as a library reserve copy.

LIMITATIONS ON THE USE OF EDUCATIONAL MULTIMEDIA MATERIALS

The amount of materials that may be used are limited as follows:

Motion Media--Up to 10 percent or 3 minutes, whichever is less.

Text Material--Up to 10 percent or 1,000 words, whichever is less.

Poetry--

- For poems of less than 250 words, the entire poem may be used, but no more than 3 poems by one poet, or 5 poems by different poets from the same anthology.
- For poems of greater length, 250 words may be used but no more than 3 excerpts by one poet, or 5 excerpts by different poets from the same anthology.

Music, Lyrics, and Music Video--Up to 10 percent, but no more than 30 seconds.

Illustrations and Photographs--

- A photograph or illustration may be used in its entirety, but no more than 5 images by an artist or photographer may be used.
- Not more than 10 percent or 15 images, whichever is less, may be used from a published collective work.

Numerical Data Sets--Up to 10 percent or 2500 fields or cell entries, whichever is less.

In general, including portions of copyrighted works by others in a new multimedia project or production should only be done sparingly and only if the College possesses a legal copy of the original work itself.

10. VIDEO RECORDING

VIDEO RECORDINGS : COMMERCIALLY PRODUCED OR TAPED OFF AIR

When using copyrighted video recordings in instructional settings, two concepts must be understood: *public performance*, and the *face-to-face instructional exemption*.

Public Performance

Section 110 of the *Copyright Law of 1976* states that:

To perform or display a work publicly means –

1/ To perform or display it at a place open to the public or at any place where a substantial number of people outside of a normal circle of a family and its social acquaintances is gathered; or

2/ To transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times...

To comply with copyright requirements, the performance or display of copyrighted materials in an educational setting must utilize a lawfully made copy and must be:

- given by *instructors* or *pupils*
- given *in the course of face-to-face teaching activities of a nonprofit educational institution*
- given *in a classroom or similar place devoted to instruction*
- a *regular part of the systematic instructional activities*
- *directly related and of material assistance to the teaching content of the transmission*

Face-to-Face Instructional Exemption

The face-to-face instructional exemption enables educators and students to perform or display copyrighted materials in an on site classroom or educational setting without fear of potential copyright infringement if all of the conditions listed above are met. The performance or display of copyrighted materials in live interactive distance learning classes (such as classes offered through the Utah Education Network EDNET System) or in the delayed transmission of faculty instruction may also qualify for protection under this exemption, as both of these applications can be viewed as extensions of the traditional face-to-face instructional setting. However in these instances, the performance, display, or transmission must be intended primarily for:

- reception in classrooms or similar places normally devoted to instruction
- reception by persons to whom the transmission is directed because their disabilities or other special circumstances prevent their attendance in classrooms or other similar places normally devoted to instruction
- reception by officers or employees of governmental bodies as a part of their official duties or employment

The face-to-face instructional exemption also applies to the performance and display of copyrighted works in a library or computer laboratory if the activity taking place is directly related to instruction.

Materials made available in a library or computer laboratory primarily for casual viewing or browsing do not qualify for protection under the instructional exemption.

GUIDELINES FOR OFF-AIR RECORDING OF BROADCAST PROGRAMMING FOR EDUCATIONAL PURPOSES (1981)

In 1981 the *Guidelines for Off-Air Recording of Broadcast Programming for Educational Purposes* were issued. These guidelines deal with the recording, retention, and use of television broadcast programs for instruction. They apply both to the use of recorded programs on the College AMX Media Distribution System and to the placing of media materials on reserve in a library or media collection. Copyrighted broadcast programs are defined as *television programs transmitted by television stations for reception by the general public without charge*. Recorded materials must be lawfully made copies and bear the appropriate licensing and use approvals. Home recorded copies of broadcast programs and copies of feature films distributed for home use are not authorized for use in distributed instruction and cannot be transmitted via the AMX system. Recordings distributed over the College AMX Media Distribution System must have public performance rights secured.

To utilize off-air copies of broadcast programs for instruction, these programs must:

- *be recorded off-air simultaneously with broadcast transmission*
- be *retained by a nonprofit educational institution not to exceed the first forty-five (45) consecutive calendar days after date of recording*
- *be erased or destroyed immediately...upon conclusion of such retention period*
- *be used only once by individual teachers in the course of relevant teaching activities*
- *be repeated only once when instructional reinforcement is necessary*
- *be used... in classrooms and similar places devoted to instruction*
- *be used during the first ten (10) consecutive school days in the forty-five (45) calendar day retention period*
- *be made only at the request of and used by individual teachers*
- *not be regularly recorded in anticipation of requests*
- *not be altered from their original content*

- *not be physically or electronically combined or merged to constitute teaching anthologies or compilations*
- *include the copyright notice on the broadcast program as recorded*

11. COMPUTER SOFTWARE

The College policy on computing resources *Chapter II, Section 17.01, Acceptable Use of College Computing Resources* states that computer software protected by copyright

> *...shall not be copied in any manner by users of College computing facilities, except as permitted by law, or by contract with the owner of the copyright. Computer software may be copied in order to make back-up copies if permitted by the copyright owner. The number and distribution of copies may not exceed the number of authorized licensed users purchased. This rule applies to all images, sound files, text files, or other copyrighted files, as well as to entire programs and codes not considered part of the public domain.*

For the full text of this policy, see the College Web page; click on *Facts About Us*, then click on *Policies & Procedures*.

Almost all software is governed by either a license or an End User License Agreement (EULA) and normally it may not be copied without prior permission. The licenses and EULAs held by the College specify the number of users in the College's contracts with the copyright owners, so permission through the appropriate channels must be obtained to use any software available through the College. Software may not be copied to other computers without specific, written permission.

Most licenses or EULAs allow authorized users to use macros, templates, forms, and similar software features to enhance functionality of the software. Sharing those with other authorized users, however, is governed by the license or EULA restrictions. Likewise derivative or add-on software may be used only if it also meets all the requirements of the copyright owner. Questions regarding any particular software item may be answered by consulting the license or EULA and a member of the Copyright Team.

12. LIBRARY DATABASES AND ONLINE SERVICE PROVIDERS

The *Digital Millennium Copyright Act* of 1998 (DMCA) defines an online service provider as *"a provider of online services or network access, or the operator of facilities therefore."* Educational institutions, including libraries, that provide access to the Internet or to online database services are protected from liability for copyright infringements by users of their services only if they have complied with

certain guidelines stated in the Act. In December of 1998, the U.S. Copyright Office issued a *Copyright Office Summary* that identified the conditions that must be met by institutions seeking protection under the DMCA. As stated in the *Summary*:

> *a service provider is eligible for the limitation on liability only if*
> - *it does not have actual knowledge of the infringement*
> - *it is not aware of facts or circumstances from which infringing activity is apparent*
> - *upon gaining such knowledge or awareness [it] responds expeditiously to take the material down or block access to it*
> - *it does not receive a financial benefit directly attributable to the infringing activity*

Elsewhere in the *Summary*, the Copyright Office defines "expeditiously" as taking place within ten to fourteen business days of receipt of a complaint. In addition, the institution must designate an Agent under the *Digital Millennium Copyright Act* to receive notices of claimed copyright infringement. If copyright owners feel that their materials have been improperly used in an online service or institutional web site, it is their responsibility to notify the service provider and send the designated Agent a written notice of copyright infringement that identifies the works in question.

13. LIBRARY RESERVES AND INTERLIBRARY LOANS

Under Section 108 of the *Copyright Law of 1976*, libraries are granted certain additional special rights in addition to *fair use* provisions. These include archiving lost, stolen, damaged, or deteriorating works and making copies for library patrons. Making copies for the purpose of placing them on reserve in the library is permitted if all four of the Section 107 *fair use* criteria are met.

Under the *Digital Millennium Copyright Act*, libraries and archives are authorized to make up to three copies, which may be digital, provided that digital copies are not made available to the public outside the library premises. This section also authorizes libraries and archives to copy an older work into a new format if the older format becomes obsolete, which means that the device or machine used to access the material is no longer manufactured or reasonably available in the marketplace.

ARCHIVAL COPIES

The Library is authorized to make an additional copy for the purposes of archival preservation beyond what would normally be authorized in terms of distribution copies.

COPIES FOR LIBRARY PATRONS

Section 108(g)(2) of the 1976 law addresses the subject of interlibrary loans and indicates that interlibrary loan arrangements cannot be used in such aggregate quantities as to substitute for a subscription to or purchase of a copyrighted work. Thus the Library is limited in the number of copies of articles published in a given periodical that it can request in a calendar year. The Library must keep records of all interlibrary loan transactions. For assistance with interlibrary loan codes and processes, contact the Interlibrary Loans section of the Markosian Library.

LIBRARY RESERVES

Educators may place a limited number of copies of copyrighted materials on reserve in the library for use by students as long as the requested use for these materials is deemed permissible under *fair use* provisions as well as restrictions imposed by the Utah *Government Records Access and Management Act (GRAMA)*. The following limits generally apply to placing copyrighted materials on library reserve:

- a single article from a periodical or journal
- a single poem
- a single chapter from a book
- a maximum of 3 copies of each item
- a maximum of 9 different items
- copies of consumables, such as course workbooks, may not be placed on reserve unless prior written permission is obtained from the publisher
- copies of test questions and answers used in academic examinations may not be placed on reserve unless certification can be provided that these materials are not restricted by provisions of the Utah GRAMA statute and that they have been properly cleared by the College GRAMA Coordinator.

Large numbers of photocopies of copyrighted articles that create the effect of a course anthology may not be used in place of a course textbook.

For assistance in placing materials on Library reserve, contact Circulation/Reserve at either the Markosian Library or the South City Campus Library. Electronic reserves come under similar regulations as do paper or media reserves. In general, electronic reserves should be limited to single items as listed above, a small portion of the materials required for the course, and copies of materials of which the library or the educator already possess a legal copy. Electronic reserve materials should include:

- any copyright notice on the original
- appropriate citations and attributions to the source
- a notice as specified in the *Copyright Law of 1976*
  (See handbook Section *7. Print Materials: Copyright Notice*)

Access to electronic reserves must be limited to students enrolled in the course and to support and/or administrative staff as needed. Access should be terminated at the end of the academic term.

Prior written permission must be obtained for materials that will be used repeatedly.

14. DISTANCE EDUCATION

Distance Education is the acquisition of knowledge and skills through mediated information and instruction, encompassing all technologies and other forms of learning, wherein a time and/or physical distance between student and instructor exists.

The College provides distance education opportunities to students in multiple media formats. Because there are no definitive copyright regulations with regard to specific distance delivery formats, the most applicable copyright regulation and governance is referenced pertaining to curriculum design, teaching strategies, and licensing issues associated with each specific format.

The capabilities of the new and evolving technologies make it possible for Distance Education courses to more closely parallel "traditional" teaching. SLCC is creating virtual classrooms and the SLCC electronic campus can be accessed at (http://ecampus.slcc.edu).

All distance courses are relying more heavily than ever before on electronic library resources and electronic library support. Issues related to copyright for these services are addressed in this handbook, Sections 12 and 13.

TELECOURSES

TELEcourses include televised lessons with related readings, assignments, on-campus or mediated seminars, and examinations. Students are given permission by Department of Distance Education to videotape the course sessions for the classes in which they are registered.

- Commercial programs used as part of any TELEcourse are publicly broadcast through licensed permission. Usually this license grants rights to reproduce sufficient copies of the video series for use only by students registered in the course. This license agreement may not cover tape duplication for library distribution or classroom use.

- In the future, digital videostreaming will be available for TELEcourse students; however, presently very few license agreements are issued to change video programs from analog to digital. You must obtain licensed permission to change video formats. This ruling affects the College's ability to close caption programs that may not be in this format originally.

- Curriculum content of TELEcourses must comply with *Fair Use* (handbook Section 3) guidelines.

- TELguides (printed course material) must comply with *Fair Use* (handbook Section 3), Print Material (handbook Section 7), and Course Packets/TELguides (handbook Section 8) guidelines and restrictions as outlined in this handbook.

VIDEO CHECKOUT (COLLEGE BY VIDEO CASSETTE)

Video checkout provides TELEcourses to students in pre-recorded format. Students enrolled in College By Video Cassette classes are expected to return the videotapes at the end of each term. Keep in mind that:

- In the future, digital videostreaming will be available for distance students; however, presently very few license agreements are issued to change video programs from analog to digital. You must obtain licensed permission to change video formats. This ruling affects the College's ability to close caption programs that may not be in this format originally.
- Curriculum content of video checkout courses must comply with *fair use* (handbook Section 3) guidelines.

- TELguides (printed course material) must comply with *Fair Use* (handbook Section 3), Print Material (handbook Section 7), and Course Packets/TELguides (handbook Section 8) guidelines and restrictions as outlined in this handbook.

INTERNET

Classes offered via the World Wide Web require students to have Internet access, an e-mail address, and a current web browser software program. Be aware that:

- To protect copyrighted material used as part of any Internet class, a password protection system must be in place to assist in controlling unauthorized use of copyrighted material. All Internet courses must use a password protection system.

- Digital video, audio, and visual material linked as part of the course should have copyright clearance. (Refer to this handbook, Sections 9 and 10.)

- No laws exist defining *fair use* for hyperlinks to Internet sites; however, instructors should notify authors of Internet pages if these pages will be used as part of an SLCC course or program. A system of digital watermarking is being implemented by many vendors as a way of identifying unauthorized copies of Internet pages.

- College web pages must comply with current College web page guidelines and the College *Acceptable Use of Computing Resources* policy.

EDNET / SATELLITE

EDNET or satellite classes include live, two-way, interactive delivery to various established sites over a state operated, closed, video conferencing system. The Utah Education Network/ EDNET and satellite classes must comply with copyright guidelines as outlined in this handbook.

WEBCASTING

Webcasting includes prearranged updating of news, weather, or other selected information (video and audio) on a computer user's desktop interface through periodic and generally unobtrusive transmission over the World Wide Web. Instructors who wish to use webcasting in their courses must obtain a license agreement with the webcasting service provider. Before contacting any service provider, please contact a member of the *Copyright Team* for assistance

15. PUBLIC AND THEATRICAL PERFORMANCES

Whenever the use of a copyrighted work is desired for a public or theatrical performance, written permission from the copyright holder must be received and royalties must be paid in order for the work to be used legally. The College has already established a variety of professional relationships and contracts to assist in making arrangements for public and theatrical performances. Before contacting any licensor, please contact a member of the *Copyright Team* for assistance.

PLAYS AND MUSICALS

Most plays and musicals that have been performed on Broadway stages are licensed by companies based in New York, and a performance contract is required to legally present a production licensed by one of these companies. These contracts are negotiated based upon house size, ticket prices, expected attendance, and professional or amateur status. The major licensors are listed below:

- Dramatists Play Service, Inc.
- Rodgers and Hammerstein
- Music Theatre International
- Samuel French, Inc.
- Tams-Witmark Music Library, Inc.

PUBLIC PERFORMANCE OF MUSIC

Public performance of music that is copyrighted, but not licensed through the above licensors, requires use of the College's contract with either ASCAP or BMI. "Blanket" licenses and fees paid through these contracts allow ASCAP or BMI to pay royalties directly to composers for public performances using materials covered by their organization.

Contracts with music providers for background music must go through the existing contracts.

PHOTOCOPYING MUSICAL SCORES OR TEXT

No photocopied music or text can be used unless prior written permission has been granted by the copyright owner, licensing house or publisher except under very limited circumstances detailed in *7. Print Materials: Copying Printed Music* in this handbook.

AUDIO OR VIDEO RECORDING OF PERFORMANCES

Audio or video tape of performances may not be made or distributed without permission. The only exceptions are copying:

- permitted under *7. Print Material: Recorded Student Performances*
- authorized for instructional purposes by the *Copyright Law of 1976*, Section 107.

16. FREQUENTLY ASKED QUESTIONS

COMPUTER SOFTWARE

I want to make a single back up copy of a piece of software. Can I legally do this?

If you are the owner of the software, the license agreement almost always allows you to make a single back up copy of the software. If the software is owned by the College, there are generally enough backup copies already made and you would not need to make one. Contact the IT Help Desk if you have questions.

Can I copy software from my computer on campus to use on my computer at home or my laptop? I would only be using one computer at a time, so it's not like I really need two separate copies.

No. While permission varies among copyright owners, generally speaking you may not share software between your two computers. The license or EULA will specify what you may do so check with the Copyright Team. Non-concurrent use is not an acceptable justification for downloading College software to use at home, even if you intend to use it only on work related projects.

I want to create additional programming for some software. Are there guidelines under which I can do this?

Software has either a license or an End User License Agreement which describes exactly what you may and may not do with the software. Many large companies, such as Microsoft and Corel, also have a section of their web sites you may query about specifics. However, if the College has the license or EULA, you must work through the Copyright Team because the software is owned by the College.

Additional programming that involves changing the source code will more often than not be prohibited by the copyright owner. Always get permission before proceeding with such a project. However, macros, templates, and other programming that simply uses existing features of the software is usually acceptable. Sometimes permission is granted based upon how you plan to use what you will be developing.

A special application package has been developed that runs with a commonly used database program. Since I have a legal copy of the database program on my computer, the application can run. However, the individual who developed the application package is selling it. Under what conditions may I purchase such an application package for my office?

Look at the database license or EULA the copyright owner provided and that you agreed to abide by when the database was installed. Does it allow the use of overlaying application packages? Also, work with a member of the Copyright Team to ensure that the developer of the application package is also working within the constraints of the original license or EULA, or that specific written permission has been given to use the application. Failure to verify copyright authorization could give rise to claims of copyright infringement.

COURSE PACKETS AND TELGUIDES

I used this material last semester with permission. Do I need permission again this semester?

Generally, yes. The College Store copyright department can let you know of the restrictions on use for your particular material, but generally copyright clearance is only extended for one term.

I don't remember the original source for my material but I've been using it for a long time. Can I continue to use it without copyright clearance?

No. We need the source of all copyrighted material. The College Store can try to help you find the information you need through numerous sources, but the original source must be noted on the copied material.

Do I need permission if there is no copyright notice on the material?

Normally, yes. The absence of a visible copyright notice does not mean the work is not protected by copyright law.

Is all copying for educational purposes considered "fair use"?

No, there is no *carte blanche* exemption for educational purposes (see this handbook Section *3. Fair Use*).

The item I've copied is no longer in print. Does it still need to be cleared for copyright?

Yes, copyright protection is still in force even though the material is out of print (see this handbook Section *7. Print Materials: Copying Out-of-Print Works*).

What if I make multiple copies and distribute them free or required their return after use, do I still need copyright clearance?

Yes, copyright clearance is still necessary. Free distribution does not exempt the work from copyright protection.

Can I copy from a work I bought without violating copyright?

Not usually. You only own one copy. You do not own the rights to reproduce portions of the work without obtaining permission from the copyright holder.

How soon should my course packet be turned in to the College Store for copyright clearance?

Some copyrighted materials can clear within twenty-four hours, while others can take up to six weeks. Therefore, please turn your packet in as soon as possible.

DISTANCE EDUCATION

Do Distance Education classes have to follow the same copyright rules as traditional, on-site classes?

Yes. The *U.S. Distance Learning Association (USDLA)* is the most comprehensive organization with regard to information concerning distance education and legal/copyright issues. These are issues that should be considered:

- To the extent that distance education is mediated instruction, it is similar to traditional face-to-face education. Therefore, its providers should be accorded the same level of protection against infringement liability as education providers in trad[illegible]onal face-to-face classroom settings enjoy.

- Distance Education is increasingly dependent on new technologies, including digital technologies. Therefore, it is the educational activity that should be protected, not a particular technology or format. Distance education restrictions should not restrict the free exchange of ideas and information between educators and students on the basis of the kinds of technologies utilized.

- New technologies vastly expand educational opportunities for both instructors and students. Distance education is not necessarily separate and distinct from on-campus education. An individual course may contain both classroom and distance education components.

- (DMCA, 1999, p. ix) *"When an educational institution in the United States transmits courses to students in other countries, it is unclear whether U.S. law will apply to such transmissions, or the law of the country where the transmission is received, making it difficult for educators to determine what uses of works are permissible."*

For a complete review of the *Copyright Office's Report of Findings and Recommendations for the Digital Millennium Copyright Act, 1998*, see the web address in Appendix B.

INTERNET SITES

May I make copies of materials found when visiting a web site?

No. Here are some points to consider:

- When visiting a web site, it is so easy to click on that right mouse button when one sees a graphic that one likes, or to copy poems, quotes, or any other type of text (including HTML coding) "as is" when one does not feel like creating either. The general (and incorrect) notion is that if it is on the Internet--it is in the public domain and may be taken without permission from the creator/owner. This is a false statement. Just because your backyard is not inside of your house, is it in the public domain? Does that give anybody off the street the right to step foot into your backyard without your permission, even if they can see it from the street? Well, the same applies to the Internet. Information found in the public domain can be copied if--and only if--the information is created by the (i) federal government, (ii) if the copyright has expired, or (iii) the copyright has been abandoned by the holder.

- Web site logos are part of the web site and should not be copied from the web site without permission.

PHOTOGRAPHS

May I use photographs of people?

It is best to have a photo release signed by the individuals in photographs you intend to copy or publish, as well as the photographer's written permission. If you are the photographer and the photograph is taken in a public place (i.e., the Quad, a street, a basketball game) rather than a private location (i.e. a classroom, someone's home) then you do not need a release if the person is in a crowd. If the individual is the focus of the shot, a releases should be obtained. If the individual is a celebrity, a release is necessary. Given these general recommendations, you should

still understand that every case is different and must still be determined on its own merits. Please contact a member of the Copyright Team before using photographs in which individuals may be recognized.

APPENDIX A

The following brevity samples are designed to provide a gauge of the amount of material that can be copied without prior written permission. Please verify that the criteria listed in *7. Print Material: Criteria for Photocopying Without Prior Written Permission* are met.

REQUIREMENTS OF
THE COPYRIGHT LAWS
AS THEY APPLY TO
HIGHER EDUCATION
August 1999

BREVITY FOR PROSE–COMPLETE ARTICLE, STORY OR ESSAY
2,500 WORDS OR LESS

This sample is 2,500 words. It shows an example of the *brevity* requirement for prose. A complete article, story, or essay of 2,500 words or less may be used once without prior written permission. A copy may exceed this limit to finish a paragraph. Such a copy may only be used once. Repeated use would require prior, written permission. This sample is 2,500 words. It shows an example of the *brevity* requirement for prose. A complete article, story, or essay of 2,500 words or less may be used once without prior written permission. A copy may exceed this limit to finish a paragraph. Such a copy may only be used once. Repeated use would require prior, written permission. This sample is 2,500 words. It shows an example of the *brevity* requirement for prose. A complete article, story, or essay of 2,500 words or less may be used once without prior written permission. A copy may exceed this limit to finish a paragraph. Such a copy may only be used once. 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BREVITY FOR PROSE–EXCERPT 1,000 WORDS OR 10 PERCENT OF THE WORK, WHICHEVER IS LESS BUT IN ANY EVENT A MINIMUM OF 500 WORDS

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APPENDIX B

The following list of sites identifies resources available to College employees in researching copyright law, guidelines, and current issues. The information provided at these sites from other educational institutions or groups does not supercede the guidelines provided in this handbook.

U.S. Copyright Office web site:

- http://lcweb.loc.gov/copyright

The University of Texas introduction to copyright for educators:

- http://www.utsystem.edu/ogc/intellectualproperty/cprtindx.htm

***Conference on Fair Use (CONFU)* final report released by the U.S. Patent and Trademark Office in November of 1998:**

- http://www.uspto.gov/web/offices/dcom/olia/confu/confurep.htm

Copyright Office *Report of Findings and Recommendations for the Digital Millennium Copyright Act, 1998*:

- www.loc.gov/copyright/cpypub/de_rprt.pdf

U.S. Distance Learning Association (USDLA)

- www.usdla.org

Copyrighted Works by Educators and Librarians*, includes *Guidelines for Off-Air Recording of Broadcast Programming for Education:

- http://www.lcweb.loc.gov/copyright/circs/index.html

Other Internet sites of interest:

- http://fairuse.stanford.edu
- http://www.ifas.ufl.edu/WWW/PIRATE/

For questions regarding information at any of these sites, please contact a member of the Copyright Team.

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